

### REMARKS

This amendment is submitted in response to the Examiner's Action dated June 24, 2004. Applicant has amended the claims to clarify key features of the invention and overcome the claim rejections. No new matter has been added, and the amendments place the claims in better condition for allowance. Applicant respectfully requests entry of the amendments to the claims. The discussion/arguments provided below reference the claims in their amended form.

### CLAIM REJECTIONS UNDER 35 U.S.C. § 103

At paragraph 3 of the present Office Action, Claims 1-3, 7-10 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Griebenow, et al.* (U.S. Patent No. 5,850,520) in view of *Stefik, et al.* (U.S. Patent No. 6,714,921). At paragraph 11 of the present Office Action, Claims 5-6, 12-13 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Griebenow, et al.* (U.S. Patent No. 5,850,520) in view of *Stefik, et al.* (U.S. Patent No. 6,714,921) in view further of *Hoyle* (U.S. Patent No. 6,141,010).

Applicant hereby incorporates by reference all arguments proffered in Amendment A, Response B, and Applicant's Appeal Brief with regards to the deficiencies in *Griebenow* and *Hoyle*. Since the current rejections based on both of these references are similar to the previous rejections in the Final Office Action, Applicant specifically reiterates the following key arguments:

- (1) *Griebenow* does not suggest "a status manager that...allows said push engine to transmit a second issue to said subscriber **only after** determining that said first issue has been received and opened" (emphases added), as provided by Appellant's independent claims; and
- (2) *Hoyle* does not suggest specific use of a cookie and cookie response features that provide status message about whether an issue of an electronic publication has been **opened** on a client computer (i.e., controlling whether or not to send a second issue based on the receipt of the cookie response indicating the **opened** status of the previous issue).

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Examiner agrees with Applicant's assessment of the limitations in *Griebenow* by stating (in paragraph 4 of the present Office Action) that *Griebenow* "does not explicitly teach allowing transmission ... only when ... first issue is opened." Examiner now relies on *Stefik* to support a rejection of this feature of Applicant's claims.

After reviewing the cited section of *Stefik*, it became clear to Applicant that Examiner's rejections are based on the incorrect assumption that the term "opened" (as it relates to the status of the first issue that is required to trigger transmission of the second issue) is synonymous with receiving the first issue at a receiving computer. As now clarified by Applicant's claims, receiving an issue of a publication (or a block) is functionally distinct from, and in no way synonymous with, opening the received issue.

Applicant's claimed feature linked a subsequent transmission of a publication issue to the actual opening of the previous issue by a user and NOT merely the receipt of the previous issue at the subscriber's computer system. Opening of the issue is a user-initiated step, while receiving the issue has no user-required feature. Further, it is the opening of the received publication (and not the receipt thereof) that triggers the return of the cookie to the server to indicate to the server that the next issue of the publication can be sent to the subscriber's computing device.

In direct contrast to Applicant's claimed feature, *Seflick* specifically provides: "the requester enters a data receive state 1909 and when the data blocks is completely received it enters an acknowledgement state and transmits an Acknowledgment message 1911 to the server," (col. 32, ll 57-61). *Seflick* further states: "the server waits until receiving an Acknowledgment message... sends the next block to the requester and again waits for acknowledgment." (*id.*, ll 62-66). Thus, while *Seflick* teaches the server sending out a next block only after an acknowledgment of the receipt of the first block is received from the requester, that acknowledgment process does not involve a user opening/accessing the blocks before the acknowledgment is sent.

Further, the process being described by *Seflick* would lead to the cluttering of the subscriber's inbox with received but unread issues of a publication. As clearly noted in the background of Applicant's specification, this cluttering of a subscriber's inbox is one of the very problems that Applicant's invention resolves.

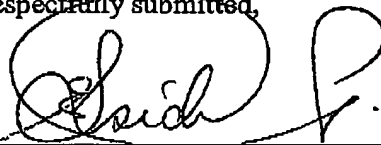
Given the above reasons, it is clear that neither combination of references suggests key features of Applicants' invention. One skilled in the art would not find Applicants' invention unpatentable over either of the above combinations of references. The above claims are therefore allowable.

CONCLUSION

Applicant has diligently responded to the Office Action by amending the claims to clarify a key feature of the invention. The clarification places the claims in better condition for allowance and overcomes the §103 rejections. Applicant, therefore, respectfully requests reconsideration of the rejection and issuance of a Notice of Allowance for all claims now pending.

Applicant further respectfully requests the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,



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